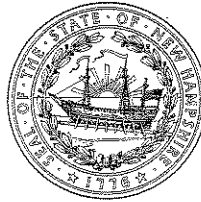


**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

June 10, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 653:6, a STATUTE related to delegates to state party conventions, most recently amended by Laws of 2005 Chapter 5 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 653:6, a STATUTE related to delegates to state party conventions, most recently amended by Laws of 2005 Chapter 5 and previously amended by the chapters cited below.

SUBMISSION

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 5 (2005) amending RSA 653:6 is attached (Exhibit 653:6 A)
 - 1. Chapter 47 (1995) amending RSA 653:6 is attached. (Exhibit 653:6 B)
 - 2. Chapter 68 (1992) amending RSA 653:6 is attached (Exhibit 653:6 C)

- b) Chapter 436 (1979) enacting RSA 653:6 is attached (Exhibit 653:6 D)
- c) The changes made by amendments to RSA 653:6 are as follows:
 - 1. Chapter 5 (2005) inserts the last sentence of this section as follows *“A person who is entitled to serve as a delegate because he or she has been nominated for office as provided in RSA 667:21 shall not be entitled to serve as an elected delegate under this section, and the next highest eligible vote-getter shall be elected.”*
 - 2. Chapter 47 (1995) removes the word “he” and replaces it with the phrase “...the person...”
 - 3. Chapter 68 (1992) inserts the last sentence of this section as follows *“In order to be elected as a delegate to a state party convention, a person shall be a registered voter of the same party in the district from which he is to be elected, and shall receive either a minimum of 10 votes or 10 percent of the votes cast in the district from which he is to be elected, whichever is less.”*
 - 4. Chapter 436 (1979) enacts RSA 653:6
- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).
- h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State’s legislature, acting pursuant to the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power

to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create Chapter 5 (Exhibit 653:6 A). The bill was signed into law (by the Governor) on May 3, 2005, pursuant to New Hampshire Constitution Part Second, Article 44.

i) Adoption dates:

1. Chapter 5 (2005) adopted May 3, 2005
2. Chapter 47 (1995) adopted May 3 1995
3. Chapter 68 (1992) adopted April 20, 1992
4. Chapter 436 (1979) adopted June 25, 1979

j) Effective dates:

1. Chapter 5 (2005) effective July 2, 2005
2. Chapter 47 (1995) effective July 2, 1995
3. Chapter 68 (1992) effective June 19, 1992
4. Chapter 436 (1979) effective July 1, 1979

k) Excluding Chapter 5 (2005), which becomes effective on July 2, 2005, all changes have been enforced.

l) The changes affect the entire State of New Hampshire.

m) The purpose of the changes are as follows:

1. The purpose of the Chapter 5 (2005) change is to prohibit nominees for office under RSA 667:21 to serve as elected delegates and designates that the next highest vote-getter shall be elected.
2. The purpose of the Chapter 47 (1995) change is to make this statute gender-neutral by replacing gender-pronouns with neutral pronouns

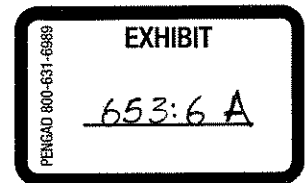
3. The purpose of the Chapter 68 (1992) change is to create requirements to be met before a person may be elected as a delegate to a state party convention and to create a minimum of votes, or percentage of votes, required to be elected to a state party convention as a delegate.
4. The purpose of Chapter 436 (1979) was to enact RSA 653:6
 - n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. *42 U.S.C. 1973c*. They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
 - o) None known.
 - p) RSA 653:6 was precleared through 1979 on June 22, 2004 by D.O.J. file numbers 2004-2563, 2004-2581 and 2004-2582. A copy of this preclearance is attached as Exhibit 653:6 E. This submission seeks preclearance of all subsequent changes to this law.
 - q) Not applicable as this is not a redistricting plan.
 - r) Exhibit 653:6 F is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov



CHAPTER 5
HB 95 – FINAL VERSION
2005 SESSION

05-0160

03/09

HOUSE BILL **95**

AN ACT relative to delegates to state party conventions.

SPONSORS: Rep. Mooney, Hills 19; Rep. MacKay, Merr 11; Rep. Kennedy, Merr 4; Sen. Boyce, Dist 4

COMMITTEE: Election Law

ANALYSIS

This bill disqualifies from election as delegates to state party conventions those persons who will serve as delegates because they are their party's nominees for office.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

05-0160

03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT relative to delegates to state party conventions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

5:1 Election of Delegates to State Party Conventions. Amend RSA 653:6 to read as follows:

653:6 Delegates to State Party Conventions. At every state primary election, the voters in each state representative district shall elect delegates to each state party convention in accordance with the districts laid out in RSA 662:6. In order to be elected as a delegate to a state party convention, a person shall be a registered voter of the same party in the district from which the person is to be elected, and shall receive either a minimum of 10 votes or 10 percent of the votes cast in the district from which the person is to be elected, whichever is less. ***A person who is entitled to serve as a delegate because he or she has been nominated for office as provided in RSA 667:21 shall not be entitled to serve as an elected delegate under this section, and the next highest eligible vote-getter shall be elected.***

5:2 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 3, 2005)

(Effective Date: July 2, 2005)

HOUSE BILL - FINAL VERSION

1995 SESSION 0691L

95-0394

10/05

HOUSE BILL 346

AN ACT requiring the Merrimack county commissioners to be elected on a rotating basis.

SPONSORS: Rep. Little, Merr 24; Rep. M. Whalley, Merr 5; Rep. Kennedy, Merr 7; Rep. Barberia, Merr 9; Rep. Weeks, Merr 18; Sen. Larsen, Dist 15

COMMITTEE: Municipal and County Government

ANALYSIS

Beginning with the 1996 state general election, sections 1, 2, and 4 of this bill provide that the county commissioners in Merrimack county shall be elected to 2 and 4-year terms on a rotating basis.

The remainder of the bill amends certain RSA provisions making them gender neutral and consistent with other sections in the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

EXPLANATION: Matter added to current law appears in **bold italics**.

Matter removed from current law appears in [brackets].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

0691L

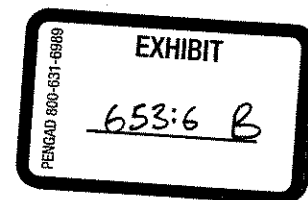
95-0394

10/05

CHAPTER 47

HOUSE BILL - FINAL VERSION

HB 346



STATE OF NEW HAMPSHIRE

In the year of Our Lord

One Thousand Nine Hundred and Ninety-Five

AN ACT

requiring the Merrimack county commissioners to

be elected on a rotating basis.

Be it Enacted by the Senate and House of

Representatives in General Court convened:

47:1 Reference to Merrimack County Commissioners Deleted. Amend RSA 653:1, VI(a) to read as follows:

(a) Coos, Grafton, [Merrimack,] and Hillsborough counties - one county commissioner by those voters in each county commissioner district in each county;

47:2 New Subparagraph; Electing Merrimack County Commissioners on Rotating Basis. Amend RSA 653:1, VI by inserting after subparagraph (g) the following new subparagraph:

(h) Merrimack county - one county commissioner by the voters in each county commissioner district in the county; provided that, at the 1996 state general election, the commissioner from district 1 shall be elected to a 4-year term and the commissioners from districts 2 and 3 shall be elected to 2-year terms. At each subsequent state general election, 2 commissioners shall be chosen in the county by the inhabitants of the districts in the county in which a commissioner's term is expiring; and, of the commissioners so chosen, one shall serve a 4-year term and one shall serve a 2-year term and both shall hold their offices until their

successors are chosen and qualified. Following the 1996 state general election, the 4-year term shall be rotated in sequence starting with district 2.

47:3 Gender Neutral Language. Amend RSA 653:6 to read as follows:

653:6 Delegates to State Party Conventions. At every state primary election, the voters in each state representative district shall elect delegates to each state party convention in accordance with the districts laid out in RSA 662:6. In order to be elected as a delegate to a state party convention, a person shall be a registered voter of the same party in the district from which [he] **the person** is to be elected, and shall receive either a minimum of 10 votes or 10 percent of the votes cast in the district from which [he] **the person** is to be elected, whichever is less.

47:4 Application. No provision of section 1 of this act shall be construed as affecting the term of office or the constituencies of the Merrimack county commissioners in office on the effective date of this act. If a vacancy occurs for any reason in the office of a Merrimack county commissioner after the passage of this act and before the state general election in November, 1996, the vacancy

shall be filled under the terms of RSA 661:9. The nominations of Merrimack county commissioners at the state general election in November, 1996, shall be as provided in this act.

47:5 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 3, 1995

Effective: July 2, 1995

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HOUSE BILL - FINAL VERSION

1992 SESSION 3537L

92-2074

10

HOUSE BILL NO. 1110 (CHAPTER 68, LAWS OF 1992)

INTRODUCED BY: Rep. Flanagan of Rockingham Dist. 8

REFERRED TO: Constitutional and Statutory Revision

AN ACT relative to the method of electing delegates to state party conventions.

ANALYSIS

This bill requires a person to be a registered voter of that party in the district from which he is to be elected in order to be elected as a delegate to a state party convention, and to receive either a minimum of 10 votes or 10 percent of the votes cast in his district, whichever is less.

EXPLANATION: Matter added appears in ***bold italics***.

Matter removed appears in [brackets].

Matter which is repealed and reenacted or all new appears in regular type.

3537L

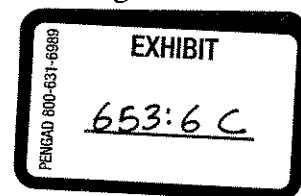
92-2074

10

HOUSE BILL - FINAL VERSION

HB 1110

STATE OF NEW HAMPSHIRE



In the year of Our Lord one thousand
nine hundred and ninety-two

AN ACT

relative to the method of electing delegates
to state party conventions.

Be it Enacted by the Senate and House of Represen-
tatives in General Court convened:

1 Electing Delegates to State Party Conventions. Amend RSA 653:6
to read as follows:

653:6 Delegates to State Party Conventions. At every state
primary election, the voters in each state representative
district shall elect delegates to each state party convention in
accordance with the districts laid out in RSA 662:6. ***In order to
be elected as a delegate to a state party convention, a person
shall be a registered voter of the same party in the district
from which he is to be elected, and shall receive either a
minimum of 10 votes or 10 percent of the votes cast in the
district from which he is to be elected, whichever is less.***

2 Effective Date. This act shall take effect 60 days after its
passage.

chosen, one shall serve a 4-year term, and one shall serve a 2-year term and both shall hold their offices until their successors are chosen and qualified. Following the 1980 state general election, the 4-year term shall be rotated in sequence starting with district 3.

Federal Officers to Be Elected

653:2 Electors of the President and Vice-President. At the state general election in 1980 and at the state general election every fourth year thereafter, the voters of the state shall elect the number of electors of the president and vice-president of the United States to which the state is entitled.

653:3 United States Senators. At the state general election in 1980 and at the state general election every sixth year thereafter and at the state general election in 1984 and at the state general election every sixth year thereafter, the voters of the state shall elect one United States senator.

653:4 United States Representatives. At every state general election, the voters of each congressional district shall elect one United States representative.

Election of Delegates to Party Conventions

653:5 Delegates to National Party Conventions. At every presidential primary election, the voters of the state shall vote their preference for party candidates for president and thereby choose the delegates to each presidential nominating convention to which the state is entitled.

653:6 Delegates to State Party Conventions. At every state primary election, the voters in each state representative district shall elect delegates to each state party convention in accordance with the districts laid out in RSA 662:6.

Election Dates

653:7 State General Election. The state general election shall be held on the first Tuesday following the first Monday in November of every even-numbered year.

653:8 State Primary Election. The state primary election shall be held on the second Tuesday in September of every even-numbered year.

653:9 Presidential Primary Election. The presidential primary election shall be held on the second Tuesday in March or on the Tuesday immediately preceding the date on which any other state shall hold a similar election, whichever is earlier, of each year when a president of the United States is to be elected. Said primary shall be held in connection with the regular March town meeting or election or, if held on any other day, at a special election called by the secretary of state for that purpose.

653:10 Assumption of Office. Federal officers-elect shall assume office on the date set by the U.S. Constitution. State officers-elect shall assume office on the date set by the New Hampshire Constitution. County officers-elect shall assume office on January 1 of the year following the state general election at which they were elected.

CHAPTER 654

VOTERS AND CHECKLISTS

Eligibility

654:1 Legal Voter. Every inhabitant of the state having a fixed and permanent established domicile, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he is domiciled. The determinant of one's domicile is a question of factual physical presence incorporating an intention to reside for an indefinite period. This domicile is the voter's residence to which, upon temporary absence, he has the intention of returning. This domicile is that place in which he dwells on a continuing basis for a significant portion of each year.

654:2 Temporary Absence. A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his home. Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues to exist until another such domicile is gained. Domicile for purposes of voting is a question of fact and intention. A voter can have only one domicile for these purposes. No person shall be deemed to have lost a domicile by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of the United States or of the high seas; nor while a teacher in or student of any seminary of learning; nor while confined in any public prison or other penal institution; nor while a patient or confined for any reason in any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility.

654:3 Voting Rights of Overseas Citizens. Notwithstanding any other provision of law to the contrary, any United States citizen being at least 18 years of age as provided in Article 11 of Part First of the Constitution of New Hampshire, who is domiciled outside the United States shall have the right to register absentee to vote in any federal election in the town or city in New Hampshire in which he had his domicile immediately prior to his departure from the United States, even though he no longer maintains domicile in said town or city and even though his intent to return thereto is uncertain, provided:

I. He complies with all other applicable requirements and qualifications of the state of New Hampshire; and

II. He is not domiciled and is not registered to vote in any other state or election district of a state or in any territory or possession of the United States; and

III. He has a valid passport or card of identity issued under the authority of the secretary of state of the United States.

654:4 Armed Services Voters.

I. Notwithstanding any other provision of law to the contrary, an armed services voter, as hereinafter defined, being a citizen of the United States and being at least 18 years of age as provided in Article 11 of Part First of the Constitution of New Hampshire shall have the right to vote absentee in any state election in the town or city in New Hampshire in which he has domicile immediately prior to such service, even though he no longer maintains domicile in said town or city and even though his intent to return is uncertain, provided:

(a) He complies with all other applicable requirements and qualifications of the state of New Hampshire.

(b) He is not registered to vote in any other state or election state or in any territory or possession of the United States.

II. As used in this section, the term "armed services voter" means:

(a) Members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or any other branch of the United States Armed Forces.

EXHIBIT

653:6 D

PEN040 000-531-48989



U.S. Department of Justice

Civil Rights Division

EXHIBIT

653:6E

PENGAD 800-631-6889

JDR:RPL:SMC:jdh
DJ 166-012-3
2004-2563
2004-2581
2004-2582

*Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

June 22, 2004

Orville B. Fitch II, Esq.
Assistant Attorney General
Civil Bureau
Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397

Dear Mr. Fitch:

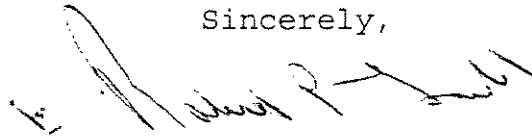
This refers to Session Law Chapter 436 (HB 575) (1979), which recodifies the election laws of the State of New Hampshire; Session Law Chapter 266 (HB 577) (2003), which implements the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15301-15545; and the adoption of formal administrative procedures for the resolution of election law complaints, including complaints filed under Title III of HAVA, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on June 7, 2004.

The Attorney General does not interpose any objection to the specified changes. Regarding Session Law Chapter 266, we note that the act specifically amends the following provisions of the State's election laws: RSA 655:19, II (Chapter 387 (1991)) (to provide for the deposit of certain candidate filing fees collected by the secretary of state into the election fund); RSA 655:19-c (Chapter 387 (1991)) (to provide for the deposit of any administrative assessments paid to the secretary of state into the election fund); RSA 664:3, I (Chapter 351 (1997)) (to provide for the deposit of political committee registration fees paid to the secretary of state into the election fund); RSA 664:21, II (Chapter 351 (1997)) (to provide for the deposit of any administrative fines for violations of the State's campaign finance laws into the election fund); and RSA 665:7 (Chapter 436 (1979)) (to authorize the Ballot Law Commission to hear and resolve complaints alleging violations of Title III of HAVA, as specified).

We note also that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Session Law Chapter 266 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 preclearance of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., creation of a centralized statewide voter registration database by the secretary of state and guidelines issued by the secretary of state implementing the database). See 28 C.F.R. 51.15.

Sincerely,

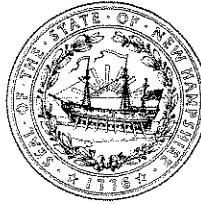
A handwritten signature in dark ink, appearing to read "Joseph D. Rich", is written over a horizontal line.

Joseph D. Rich
Chief, Voting Section

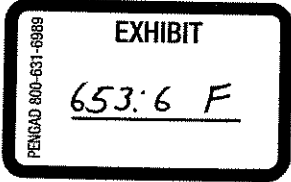
**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL



News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov